

AMENDED IN SENATE AUGUST 31, 1999

AMENDED IN SENATE AUGUST 16, 1999

AMENDED IN SENATE JUNE 29, 1999

AMENDED IN ASSEMBLY APRIL 15, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1152

Introduced by Assembly Member Ackerman

February 25, 1999

~~An act to amend Section 77009 of the Government Code,~~
~~and~~ *An act to amend Section 2942 of the Probate Code,*
relating to courts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1152, as amended, Ackerman. Courts: funding: public guardians.

~~(1) Existing law provides state funding for trial courts under the Brown-Presley Trial Court Funding Act, as specified, and requires each board of supervisors to establish in the county treasury a Trial Court Operations Fund, to be used for specified purposes.~~

~~This bill would require all funds received by a trial court for operating and program purposes to be deposited in the trial court operations fund; and would require funds received for funding child support commissioners and family law facilitators, and specified funds received for purposes other than court operations, to be placed in special accounts in that~~

~~fund, as specified. The bill would impose a state-mandated local program by imposing new duties upon the county treasurer.~~

~~(2) Existing law requires a probate court to determine the just and reasonable compensation of the public guardian, the attorney of the public guardian and the processing and filing services of the county clerk or clerk of the superior court, to be paid from the estate of a ward or conservatee.~~

~~This bill would require the court, in making this determination, to consider specified factors, but would not require a public guardian to base a request for compensation upon an hourly rate.~~

~~(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes no. State-mandated local program: yes no.~~

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 77009 of the Government Code~~
 2 ~~is amended to read:~~
 3 ~~77009. (a) For the purposes of funding trial court~~
 4 ~~operations, each board of supervisors shall establish in the~~
 5 ~~county treasury a Trial Court Operations Fund, which~~
 6 ~~will operate as an agency fund. All funds appropriated in~~
 7 ~~the Budget Act and allocated and reallocated to each~~
 8 ~~court in the county by the Judicial Council shall be~~
 9 ~~deposited into the fund. Accounts shall be established in~~
 10 ~~the Trial Court Operations Fund for each trial court in~~
 11 ~~the county, except that one account may be established~~

1 ~~for courts which have a unified budget. In a county where~~
2 ~~court budgets include appropriations for expenditures~~
3 ~~administered on a countywide basis, including, but not~~
4 ~~limited to, court security, centralized data processing and~~
5 ~~planning and research services, an account for each~~
6 ~~centralized service shall be established and funded from~~
7 ~~those appropriations.~~

8 ~~(b) The moneys of the Trial Court Operations Fund~~
9 ~~arising from deposits of funds appropriated in the Budget~~
10 ~~Act and allocated or reallocated to each court in the~~
11 ~~county by the Judicial Council shall be payable only for~~
12 ~~the purposes set forth in Sections 77003 and 77006.5, and~~
13 ~~for services purchased by the court pursuant to~~
14 ~~subdivisions (b) and (c) of Section 77212. The presiding~~
15 ~~judge of each court in a county, or his or her designee,~~
16 ~~shall authorize and direct expenditures from the fund and~~
17 ~~the county auditor-controller shall make payments from~~
18 ~~the funds as directed. Approval of the board of~~
19 ~~supervisors is not required for expenditure from this~~
20 ~~fund.~~

21 ~~(c) All funds received by a trial court from any source~~
22 ~~shall be deposited in the trial court operations fund.~~
23 ~~Funds that are received to fulfill the requirements of~~
24 ~~Article 4 (commencing with Section 4250) of Chapter 2~~
25 ~~of Part 2 of Division 9 and Division 14 (commencing with~~
26 ~~Section 10000) of the Family Code shall be identified and~~
27 ~~maintained in a separate account established in the fund~~
28 ~~for this purpose. All other funds that are received for~~
29 ~~purposes other than court operations, as defined in~~
30 ~~Section 77003 and Rule 810 of the California Rules of~~
31 ~~Court, shall be identified and maintained in one or more~~
32 ~~separate accounts established in the fund pursuant to~~
33 ~~procedures adopted by the Judicial Council. This~~
34 ~~subdivision shall only apply to funds received by the~~
35 ~~courts for operating and program purposes. This~~
36 ~~subdivision shall not apply to funds received by the courts~~
37 ~~pursuant to Section 68084, if those funds are not for~~
38 ~~operating or program use.~~

39 ~~(d) Interest received by a county which is attributable~~
40 ~~to investment of money required by this section to be~~

~~deposited in its Trial Court Operations Fund shall be deposited in the fund and shall be used for trial court operations purposes.~~

~~(e) In no event shall interest be charged to the Trial Court Operations Fund, except as provided in Section 77009.1.~~

~~(f) Reasonable administrative expenses incurred by the county associated with the operation of this fund shall be charged to each court on a pro rata basis in proportion to the total amount allocated to each court in this fund.~~

~~(g) A county, or city and county, may bill trial courts within its jurisdiction for costs for services provided by the county, or city and county, as described in Sections 77003 and 77212, including indirect costs as described in paragraph (7) of subdivision (a) of Section 77003 and Section 77212. The costs billed by the county, or the city and the county, pursuant to this subdivision shall not exceed the costs incurred by the county, or the city and the county, of providing similar services to county departments or special districts.~~

~~(h) Pursuant to Section 77206, the Controller, at the request of the Legislature or the Judicial Council, may perform financial and fiscal compliance audits of this fund.~~

~~(i) The Judicial Council with the concurrence of the Department of Finance and the Controller's office shall establish procedures to implement the provisions of this section and to provide for payment of trial court operations expenses, as described in Sections 77003 and 77006.5, incurred on July 1, 1997, and thereafter.~~

~~(j) The Judicial Council shall study alternative methods for the establishment and management of the Trial Court Operations Fund as provided in this section, and shall report its findings and recommendations to the Legislature not later than November 1, 1998.~~

~~SEC. 2.~~

~~SECTION 1. Section 2942 of the Probate Code is amended to read:~~

~~2942. The public guardian shall be paid from the estate of the ward or conservatee for all of the following:~~

1 (a) Reasonable expenses incurred in the execution of
2 the guardianship or conservatorship.

3 (b) Compensation for services of the public guardian
4 and the attorney of the public guardian, and for the filing
5 and processing services of the county clerk or the clerk of
6 the superior court, in the amount the court determines is
7 just and reasonable. In determining what constitutes just
8 and reasonable compensation, the court shall, among
9 other factors, take into consideration the actual costs of
10 the services provided, the amount of the estate involved,
11 the special value of services provided in relation to the
12 estate, and whether the compensation requested might
13 impose an economic hardship on the estate. Nothing in
14 this section shall require a public guardian to base a
15 request for compensation upon an hourly rate of service.

16 (c) An annual bond fee in the amount of twenty-five
17 dollars (\$25) plus one-fourth of 1 percent of the amount
18 of an estate greater than ten thousand dollars (\$10,000).
19 The amount charged shall be deposited in the county
20 treasury. This subdivision does not apply if the ward or
21 conservatee is eligible for Social Security Supplemental
22 Income benefits.

23 ~~SEC. 3. Notwithstanding Section 17610 of the~~
24 ~~Government Code, if the Commission on State Mandates~~
25 ~~determines that this act contains costs mandated by the~~
26 ~~state, reimbursement to local agencies and school~~
27 ~~districts for those costs shall be made pursuant to Part 7~~
28 ~~(commencing with Section 17500) of Division 4 of Title~~
29 ~~2 of the Government Code. If the statewide cost of the~~
30 ~~claim for reimbursement does not exceed one million~~
31 ~~dollars (\$1,000,000), reimbursement shall be made from~~
32 ~~the State Mandates Claims Fund.~~